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NORTHERN DIST. OF TX
FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

2010 MAR -8 AM 11:25

DEPUTY CLERK pk

TONY WILSON,

Petitioner,

V.

2:10-CV-0020

RICK THALER, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION
and DISMISSING PETITION FOR A WRIT OF HABEAS CORPUS

Petitioner has filed with this Court a petition for a federal writ of habeas corpus. On January 26, 2010, the United States Magistrate Judge entered a Report and Recommendation in this cause, recommending therein that the instant habeas application be dismissed for failure to pay the requisite filing fee. In his Report and Recommendation, the Magistrate Judge advised petitioner that if he timely submitted to this Court “evidence that he has authorized his institution to disburse the requisite funds from his trust account by properly completing and submitting to the prison a Form I-25 entitled ‘Inmate Request for Withdrawal’” that the case would be held in abeyance. On February 3, 2010, petitioner advised the Court he had “initiated the filing of the Form I-25 Inmate Request for Withdrawal for processing of courts fee of five dollars to be sent to court within 30 days of date of filing.” Petitioner did not submit to the Court any evidence supporting his claim that he had submitted Form I-25 to the prison for processing. On February 28, 2010, petitioner advised the Court he sent the Form I-25 to this Court 8-10 days prior, and requested this Court advise him as to whether the Court had “received and processed the Form I-

25.” As of this date, the filing fee has not been paid in this cause nor has the Court received evidence that petitioner has submitted to the prison a properly completed Form I-25 authorizing payment of the filing fee from petitioner’s trust account funds.

Having made an independent examination of the record in this case, the undersigned United States District Judge is of the opinion the Magistrate Judge's Report and Recommendation should be, and hereby is, ADOPTED. Accordingly, the petition for a writ of habeas corpus is hereby DISMISSED for failure to pay the filing fee. The undersigned further notes, however, that even if this Court had received the requisite filing fee, petitioner’s habeas application would have been denied as he was attempting to challenge a prison disciplinary proceeding wherein he did not receive a punishment sanction which included forfeiture of previously accrued good time credits. *See Malchi v. Thaler*, 211 F.3d 953, 958 (5th Cir. 2000). Further, any civil rights claims petitioner was attempting to assert in his habeas corpus petition would have been dismissed as inappropriate.

IT IS SO ORDERED.

ENTERED this 8th day of March 2010.


MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE